D.B.HABEAS CORPUS PETITION(WRIT) NO. 1851/2006

DATE OF ORDER:26.04.2006

HON'BLE MR.JUSTICE N.N.MATHUR
HON'BLE MR.JUSTICE MANAK MOHTA

Mr.K.S.Gill for the petitioner
Mr.S.K.Vyas, Government Advocate
Mr.Arjun Purohit for the respondent

BY THE COURT(PER HON'BLE MR.MATHUR J.)

By way of instant Habeas Corpus Petition, petitioner Tej Karan seeks direction for the production of Smt.Smita. It is averred that Smita is major being date of her birth as 7.8.1987. It is also averred that he has married with her. An affidavit of Smita produced before the Chief Judicial Magistrate, Dausa is also produced. It is averred in the said affidavit that she married with the petitioner Tej Karan.

A reply to the petition has been filed. It is stated that Smt.Vidha Devi W/o Shri Ramesh Chandra filed a missing F.I.R. at Police Station, Marwar Junction on 23.3.2006. Tej Karan and Smita were taken in custody under the provisions of Section 41 (2)/109 Cr.P.C. They were produced before the Chief Judicial Magistrate, Dausa. She expressed her desire to go with her mother. Under the judicial order she is with her mother.

Today, she is produced before us. It is stated that Tej Karan Meena had close relations with the family. He was being treated as brother of Smita's mother. Smita has frankly stated that she treated Tej Karan as her maternal uncle but later on became friendly to him. It is further pleaded that it was her innocent act. Be that as it may, she has expressed her desire to stay with her mother only.

In view of the aforesaid, it cannot be said that Smita is in unlawful custody of her mother. The habeas corpus petition stands disposed of.

(MANAK MOHTA) J. **(N.N.MATHUR) J.**

BKS/-